

ADVISORY COMMITTEE: APARTMENT RENT ORDINANCE

REGULAR MEETING ACTION MINUTES

OCTOBER 14, 2015

MEMBERS PRESENT: Matthew Carney
Gustavo Gonzalez
Joshua Howard
Amiee Inglis
Roberta Moore
Melissa Morris
Elizabeth Neely
Michael Pierce
Eloise Rosenblatt
Elisha St. Laurent
Tom Scott – arrived at 6:11

MEMBERS ABSENT: John Hyjer

STAFF:	Jacky Morales-Ferrand	Housing Department
	Wayne Chen	Housing Department
	Ramo Pinjic	Housing Department
	Ann Grabowski	Housing Department
	Shawn Spano	Contracted Facilitator

(a) Call to Order/Orders of the Day—Shawn Spano opened the meeting at 6:06pm.

(b) Introductions— Mr. Spano introduced himself, committee members introduced themselves, and members of the Housing Department introduced themselves.

(c) Unfinished business from October 7th meeting, if any (Housing Staff, Facilitator)

Mr. Chen presented information on the inclusion of duplexes in the ARO.

Focus Question: Is the inclusion of duplexes consistent with the goals and purpose of the ARO?

Mr. Howard asked if the number of duplexes presented were in San Jose proper, or in unincorporated county pockets were included in the dataset.

Mr. Pierce asked for clarification on whether a single family home that has a granny unit added to it would classify it as a duplex.

Ms. Morales-Ferrand answered that it would not.

Ms. Morris explained that neither new construction nor any changes to a single family home residence would be allowed to be restricted by rent control under Costa-Hawkins.

Mr. Scott –How would you treat an old house with two units that was never permitted?

DRAFT

Mr. Pinjic answered that if the property was rented for more than 30 days it would be subject to rent control.

Ms. Moore asked if duplexes would be allowed up to 1995 and how many units were built before 1979.

Ms. Morales-Ferrand answered that the City is allowed to go up to 1995 because duplexes were never exempted, and instead were originally excluded.

Ms. Inglis answered that in San Jose the majority of duplexes were built before 1979.

Ms. St. Laurent asked if the conversion of a single family home to the addition of a duplex was a zoning question.

Ms. Morales-Ferrand answered that the addition of a new unit to a single family home would be not trigger rent control

Ms. Morris answered the focus question to say that yes, the inclusion of duplexes in the ARO does meet the goals and purpose of the ARO because the inclusion significantly helps San Jose families by increasing the number of units available by up to roughly 20%. The inclusion of duplexes is allowed under Costa-Hawkins.

Ms. Rosenblatt added that in the New York Times ran a piece this morning speaking to the housing crisis in Oakland and that she hoped that we would have a sense of neighborliness in San Jose. Citing a statistic – 65% of people nationally own their own homes, but ownership rate in the bay area is 54%. She believes that broadening the availability of the ARO to duplexes is consistent with the goals and the mission of the ARO.

Mr. Gonzales noted that he was concerned that the 43,000 universe of ARO units did not include the number of exempted uses/units. One of the unintended consequences of including duplexes will be that owners will raise the rents as a knee-jerk reaction to the new restriction and families will be out on the street.

Ms. St. Laurent: Believes that the inclusion of duplexes in the ARO is consistent with the goals and purpose. The Housing Authority has a huge backlog of people in need because people can't afford rent. That number will grow if we don't cap rents now.

Mr. Pierce agrees with Ms. St. Laurent but is concerned that ARO does not add another unit to the housing stock because those units are already occupied by people, whether there is a restriction or not. We need to build more housing and new units.

Ms. St. Laurent said that the City is building thousands of homes right now and it's not enough. Neighborhoods are gentrifying now and rents are out of reach for lower income individuals and families.

Ms. Morris pushed back on the dichotomy between increasing supply and preventing the displacement of tenants through rent control provisions, when both can be accomplished. The City needs protections for tenants as much as it needs new supply.

Mr. Scott stated that if we're asking ourselves to consider and find consistency with the goals of the ARO from 1979 then we should leave the ordinance the way it is because they were excluded to begin with. Believes inclusion of duplexes is a bad idea because the product is too much like single family homes.

DRAFT

Ms. Moore said that there are short and long term impacts. SF has had rent control for a long time and it doesn't have housing available for its service workers. People think that landlords are greedy but she bought her building in 2010 and it won't make money until 2025. Raised a fairness question about owners who purchased a duplex without a restriction but will be forced to sell a depressed property because of the new income restriction.

Mr. Carney said that from the perspective of the families he works with who are often in crisis and moving out of the city. Landowners are part of the community and shape the way the community could look in the years ahead.

Ms. Inglis said that part of the original intent to carve out single family homes statewide was because the product was owned by small time landlords. Today many single family homes and duplexes are owned by larger investment corporations. Including duplexes would be consistent with the original intent of the ARO. 1,500 of the current duplexes are owner-occupied. Of sales of buildings in San Jose, 198 were duplexes which raises the question of speculation.

Ms. Morris clarified that the analogy used previously about selling a property under rent control controls the rent amount or sale price is overstated due to the inclusion of vacancy decontrol.

Ms. Moore stated a concern that if we squeeze the small investor too much by adding restrictions they will sell to large investors. Would like the following question answered: What is the size of the investor that's investing in duplexes?

Mr. Scott said he works with a lot of small investors and he often sees small owners who don't always keep their buildings up but they do keep their rents low. Adding restrictions will trigger landlords to raise rents before the restrictions are in place.

Mr. Howard asked staff if the number of calls from duplex residents are currently being tracked. Stated that the real issue is that adding duplexes doesn't add one new unit of housing. Adding duplexes up to 1995 creates a two-tier restriction system in the ARO because buildings of 3 or more units are already restricted by the 1979 ceiling. Shouldn't do anything to dissuade investment. Not sure that including duplexes is legally consistent with Costa-Hawkins.

Mr. Gonzalez said that he's never seen a large investor come in and look for duplexes as investment properties. Families buy the units and including duplexes takes away the American dream. Concerns about data, specifically about rent amounts.

Ms. Moore: Slide 9 – question about number of staff that would be needed to monitor duplexes. Can that money go to building more affordable housing?

Ms. Neely is a renter downtown and is paying \$1800 for a studio. Rents aren't necessarily overstated because submarkets differ in price.

Ms. Morris wants to focus on the inclusion of duplexes. Hearing that some landlords will leave the market if duplexes are included but then there are landlords who voluntarily keep rents low. Wonders if a limitation on rent increases would impact a good landlord's decision to keep rents low. Renter protections need to be expanded and some of those renters live in duplexes.

DRAFT

Mr. Carney is a renter in a complex around 100 units, where rent is just under \$2,000 a month. Agrees that rents aren't being overstated.

Mr. Pierce offered that there is a split market in San Jose with ARO units and market rate units. Development costs to build new market rate construction is high, which is one of the drivers of rent. Is hearing that there is consensus of a problem in the housing market. The issue is about who should pay for the solution. Everyone here wants to help.

Ms. Moore offered that she has three priorities as a building owner: cash flow, stability, and operating a clean and safe building. Responding to Ms. Morris' comment that ARO does not impact good owners but it does impact bad owners. ARO impacts all owners negatively. Agrees that the City needs to go after slumlords, but adding restrictions on top of old restrictions doesn't help that effort.

Mr. Carney, in response to Mr. Pierce's comments: renters need consistency in how much the rent can be increased, not necessarily a supplement to pay rent. When unexpected rent increases happen people are displaced.

Ms. Inglis said that she's excited to talk about rent control. Investment in single family homes is not related to this. Believes that rent control would do a better job regulating if there weren't so many carve outs.

Mr. Scott predicts that small owners will leave the market if duplexed are included under the ARO.

Ms. Neely said that if we believe that good owners naturally keep rents low and there wouldn't likely be a behavioral change with inclusion in the ARO, then what is the big impact?

Mr. Pierce offered an example of health care/employment costs that impact a management company's bottom line and that the ARO may not have the flexibility to cover their annual cost of doing business.

Ms. Moore said that adding duplexes really hits the mom and pop investors.

(d) Presentation and discussion of Consultant Scope of Work, including background information, contextual information, financial outcomes and fair returns (Housing Staff, Facilitator)

Mr. Chen presented information on the scope of work for the consultant. (Roughly 7:20pm)

Ms. Rosenblatt: interested in knowing what the turnover has been and how that impacts rents. Interest in desirable tenants – who are those tenants and which groups are being displaced? Where are they moving?

Ms. Moore: Requests that consultant look back to 1999 with a market condition overlay, including interest rate, vacancy rate and employment. Also, age of owners. ARO units only: % increases, # of increases, cause for evictions that were no cause

Mr. Gonzalez: Provide petition information and statistics.

Ms. Inglis: add in the cost of displacement and/or homelessness if possible.

DRAFT

Mr. Scott: Fair returns: important to look at outcomes of other cities with AROs. How does a consultant determine what a fair return is for an owner?

Mr. Pierce: Task 3 – interesting and relevant if there was a correlation between for-sale and rental housing; length of ownership and age of property (property tax rates); impact on smaller properties which are self-managed and have lower costs – need to try and disaggregate. Slide 20: appreciation is vacuous because it isn't realized until the property is sold, which raises the cost base.

Mr. Howard: task 1 & 2: important to look at market rate rents and in place rents, how to do an economic analysis on property values under ARO when rental income is reduced, including assessed property value; changes over time in the properties under ARO with tenants.

Ms. Rosenblatt: wonders if consultant will do any research on zoning and available areas for development.

Ms. Morris: consultant scope is very ambitious. Wonders if consultants will be looking at household size, children in the HH and persons with disabilities. Will there be any data on the rent burden

Mr. Gonzalez: Debt service needs to be factored in as do interest rates. Data is going to impact how committee will think and feel about annual increase conversation. Conversations without data are uninformed. Panel should have alternate members to account for when people aren't available.

Mr. Chen and Ms. Morales Ferrand explained that the upcoming meeting on Annual Allowable Increase will be a discussion of the standards, not a decision on what the rate should be.

Ms. Moore: Look at age of building.

(e) Open Forum

(f) Adjourn Facilitator Shawn Spano adjourned the meeting at 8:38pm.